

THE HON'BLE SRI JUSTICE C.V. RAMULU

Friday, the 10th day of August, 2007

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W.P.No.12501 of 1998

Between:-

K.L.S.S. Prasad & others

... Petitioners

and

Osmania University, rep. by its
Registrar, Hyderabad
and another

... Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.12501 of 1998

ORDER:

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This Writ Petition is filed seeking a Mandamus declaring that the petitioners are entitled to be treated as employees of Osmania University and are entitled to be extended the benefits, such as, automatic advancement scheme, pension, gratuity, and other retiral benefits on par with the regular employees of the University and also entitled for common seniority along with employees of the Osmania University in the similar categories.

Petitioners joined the service of the respondent-University on daily wage basis in different posts. However, thereafter, they were put on regular time scale. According to them, they joined in the Office of the Director of Correspondence and Contact Programme, College of Education, Osmania University. In fact, in the year 1984 the Correspondence-cum-Contact Programme, College of Education, Osmania University was redesignated as Vacation Courses in Education (B.Ed. & M.Ed.), Department of Education, Osmania University. The grievance of the petitioners is that though they are working in the University, they are not being treated as regular employees of the University and all the facilities that are provided to the employees of the University are not being provided to them. They are put to insecurity of their employment and there was no mention as to whether they would be paid pension etc., after they attained the age of superannuation. The Osmania University and the Directorate of

Vacation Courses has been taking arbitrary action and has been discriminating the employees at their whims and fancies and they were not dealt with fairly. In fact, the University nominates a Professor to be the Director of the Centre and two Coordinators on tenure basis and the said posts are filled in by the persons among the Readers working in the Education Department of the University. The posts of Assistant Coordinators are filled up by direct recruitment. Initially, two posts of Assistant Coordinators were filled up on *ad hoc* basis. Later, regular recruitment was sought to be made by the University. The University has given a notification in the newspapers calling for applications and selected candidates and appointed them on regular basis. The qualifications required for the post of Coordinator were similar to that of the post of Lecturer. The other posts are filled up by direct recruitment. Most of the petitioners were initially appointed on daily wage basis. Later, they were brought on to the time scale of pay. Insofar as the persons working as Coordinators and Assistant Coordinators are concerned, their orders of appointment were given by the University. The Director being a regular employee of the University and being a Professor, draws his salary from the University funds and honorarium from the funds of the Correspondence-cum-Contact Programme. So also, the Coordinators being regular employees of the University got salaries from the funds of the University. The Directorate is now redesignated as Vacation Courses in Education. Petitioners made several representations stating that they have been working for more than 10 years in different posts and they be given 10 years scale as is given to all employees in the University. Respondents replied by their Proceedings dated 28-2-1997 saying that automatic advancement scheme is applicable to the employees, who are working on permanent basis against the normal

budgeted posts in the University and the employees working in the Correspondence-cum-Contact Programme Directorate, redesignated as Vacation Courses in Education are not entitled for the same. According to the University, the employees' salaries are paid from the provisions of the self-financing funds. In fact, till recently, the University was permitting the petitioners to attend for the departmental tests conducted by it. Even among the staff of the Directorate of Vacation Courses, one Pratap Reddy, who joined the service in 1984 and one Krishnaiah, who joined in 1979 were absorbed in the services of the University, though they were originally appointed in the Career Correspondence-cum-Contact Programme; whereas, the case of the petitioners was not considered. Therefore, this Writ Petition.

A detailed counter affidavit has been filed on behalf of the 1st respondent asserting that the petitioners were appointed under a Scheme and their salaries are being paid from the fees collected from the students. As the petitioners were working for the last 22 years, they expect the University to treat them as its own employees and protect their pensionary benefits etc. The allegation of the petitioners that the University and the Director of Vacation Courses have been taking arbitrary action and discriminating them at their whims and fancies and the University is not acting fairly and not taking steps in a *bona fide* manner is not correct. The petitioners are being paid scales of pay on par with University employees and they enjoy earned leave, sick leave, casual leave benefits etc., as per Rules and are also participating in the service organization elections. They are contributing to the Provident Fund as per the University Rules and are availing surrender leave option also. From time to time, all the loans and benefits that are extended to the University employees are also being extended to the petitioners. The exceptions are related to the

extension of University pensionary benefits, promotions, time scale and issue of identity cards, which are tied up with the University. However, the Group Insurance Scheme was recently started for the petitioners. While according permission to start correspondence course for B.Ed. and M.Ed. under the auspices of University College of Education in the year 1979, the University made it clear that the programme would be self-financing in nature and approved the suggested staff pattern by the University College of Education. The course was run under the Centre for Distance Education for a short interregnum and later, in the year 1992, it was restored to University College of Education. The transfer of the course to Centre for Distance Education and *vice versa* were effected through Board of Management – the apex executive body of the University. As per the staff pattern, the posts of Director and Coordinators were honorary and filled up by the University and their honorarium was to be paid from the funds of Vacation Courses in Education. The posts of Assistant Coordinators were on *ad hoc* basis and their salaries were initially paid from the funds of Vacation Courses in Education; however, when the programme was transferred to Centre for Distance Education, Osmania University, subject to the notification of the posts by the University and placing them on regular scale of pay, contract was executed by them and their salaries were paid from the funds of the Distance Education. The non-teaching staff were appointed on the basis of advertisement, initially, on daily wage basis. Subsequently, the scales of pay applicable in Osmania University for the respective cadres were extended to all of them. While restoring the vacation courses in Education programme back to University College of Education from Centre for Distance Education, services of some of the vacation courses staff were retained by Centre for Distance

Education. Further, the vacation courses programme is purely self-financing scheme and fee collected from the students is the only source of income. The fund accrued after meeting the recurring and non-recurring expenses of the programme was deposited in the Bank. Accounts are being maintained for each item of expenditure and regular auditing is being done every year by Local Fund Audit authorities. As the accounts are maintained properly and regularly and auditing is conducted, there is no room for misuse of funds. All payments are made only after the bills are approved by the University pre-audit. Regarding the time scale applicability, it is again the prerogative of the University. Normally, it is made applicable to the regular employees. Vacation Courses in Education did not enjoy the status of a branch or wing of the University, but remained only as a self-financing scheme within University College of Education. However, payments made to the staff are to be approved by the University and now the nomenclature is changed and continues to be managed by the College. The 1993 Pay Scale Revision was adopted in respect of Vacation Course in Education employees as approved by pre-audit section of the University. In fact, a near bankrupt situation has now arisen, as there is no admission since the year 2001-02 for want of permission from National Council for Technical Education – the accreditation agency for Teacher Education courses in the country.

From the above, it is clear that the vacation courses are run under a self-financing scheme. It is not funded by the University or any other Governmental agency. However, the Osmania University has taken care to give better service conditions to the petitioners herein, such as, pay scale, casual leave, earned leave, sick leave, encashment of surrender leave etc., on par with regular employees of

the University. It is stated in the counter that a near bankrupt situation has now arisen, as there is no admission since 2001-02 for want of permission from National Council for Technical Education and the expenditure on salaries and other recurring and non-recurring expenditure is met from the reserve funds, which are slowly depleting. Under those circumstances, petitioners cannot seek any further extension of the benefits as are being extended to the regular University teaching and non-teaching staff. Since the petitioners are working under a self-financing scheme, they are not entitled for pension, gratuity etc., as claimed by them. The Writ Petition is speculative in its nature and, therefore, it is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

10-8-2007

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